

# MORGANTOWN BOARD OF ZONING APPEALS

## MINUTES

April 19, 2006

6:30 P.M.

City Council Chambers

**Members Present:** Bernie Bossio, Mark Furfari and Jim Shaffer.

**Members Absent:** Nick Iannone and Jim Rockis.

**Staff Present:** Lisa Mardis, Deputy Planning Director.

### MATTERS OF BUSINESS:

Motion to approve the minutes of March 15, 2006, as written, by J. Shaffer, second by M. Furfari. Motion carried unanimously.

### OLD BUSINESS:

A. V05-12 / LAI / 400 Forest Avenue: Request withdrawn by applicant's request; to be resubmitted under 01.03.2006 zoning amendment.

B. CU05-15 / LAI / 400 Forest Avenue: Request withdrawn by applicant's request; to be resubmitted under 01.03.2006 zoning amendment.

### NEW BUSINESS:

C. CU06-03 / Baehr / Highland Avenue: Request withdrawn by applicant's request; to be placed on the May 2006 agenda.

D. V06-01 / ALDI's / 246 University Avenue: Request by ALDI, Inc. for an expansion of a nonconforming structure at 246 University Avenue. Tax Map #49, Parcels #1 & 25.1; an I-1, Industrial District.

L. Mardis read the staff report stating that the applicant seeks a variance to expand its nonconforming structure by 3,053 ft<sup>2</sup> from its existing gross floor area of 13,140 ft<sup>2</sup> to 16,193 ft<sup>2</sup>. Article 405 "Nonconforming Provisions" requires variance approval by the BZA when an expansion increases the extent of its nonconformity. Although the proposed expansion follows the rear building line of the existing structure, it will extend further into the required rear yard setback.

Criteria	Standard	Proposed Conditions	Variance Request
Minimum Rear Setback	30 ft	24.8 ft	5.3 ft

L. Mardis explained that prior to the current zoning ordinance, “grocery store” was a permitted use. The use was inadvertently excluded in the amendment. This policy correction is currently under review by the Planning Commission and City Council.

L. Mardis clarified that the Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant. She continued that the proposed project increases internal parking lot landscaping. Additionally, the applicant has agreed to provide plantings along the newly created parking stalls to buffer views from the Caperton Trail. Staff believes that the petitioner’s request is reasonable, concurs with the “Findings of Fact” submitted by the applicant, and recommends approval.

Sarah Bailey, representing ALDI’s, stated that, when originally built, it was an permitted use and the rear setback requirement was fifteen (15) feet. They are making the situation worse by about 1.5 feet, but are still not close to the original 15 foot setback requirement. She showed that the handicapped parking is being relocated; one storm structure is being revised to better handle erosion control and the others will stay the same; and they are adding landscaping along the rear.

B. Bossio asked for public comments. There being none, the public portion was closed.

L. Mardis individually read each Finding of Fact and the applicant’s corresponding response.

The Board voted upon each Finding of Fact after the individual reading.

Motion to approve Finding of Fact #1 by M. Furfari, second by J. Shaffer. Motion passed unanimously.

Motion to approve Finding of Fact #2 by J. Shaffer, second by M. Furfari. Motion passed unanimously.

Motion to approve Finding of Fact #3 by M. Furfari, second by J. Shaffer. Motion passed unanimously.

Motion to approve Finding of Fact #4 by J. Shaffer, second by M. Furfari. Motion passed unanimously.

Motion by J. Shaffer to approve the request with the condition that the variance will be a maximum of 5.3 feet, second by M. Furfari. Motion carried unanimously.

## **OTHER BUSINESS:**

**Public Comments:** NONE.

**Staff Comments:** NONE.

## **ADJOURNMENT**